
Status: Point in time view as at 17/10/2022.

Changes to legislation: *The Criminal Evidence (Northern Ireland) Order 1999, Cross Heading: Prohibition imposed by court is up to date with all changes known to be in force on or before 08 August 2024. There are changes that may be brought into force at a future date. Changes that have been made appear in the content and are referenced with annotations. (See end of Document for details)*

STATUTORY INSTRUMENTS

1999 No. 2789

The Criminal Evidence (Northern Ireland) Order 1999

PART III

PROTECTION OF WITNESSES FROM CROSS- EXAMINATION BY ACCUSED IN PERSON

Prohibition imposed by court

Direction prohibiting accused from cross-examining particular witness

24.—(1) This Article applies where, in a case where [^{F1}none of Articles 22, 22A [^{F2}, 22B] and 23] operates to prevent an accused in any criminal proceedings from cross-examining a witness in person—

- (a) the prosecutor makes an application for the court to give a direction under this Article in relation to the witness, or
 - (b) the court of its own motion raises the issue whether such a direction should be given.
- (2) If it appears to the court—
- (a) that the quality of evidence given by the witness on cross-examination—
 - (i) is likely to be diminished if the cross-examination (or further cross-examination) is conducted by the accused in person, and
 - (ii) would be likely to be improved if a direction were given under this Article, and
 - (b) that it would not be contrary to the interests of justice to give such a direction,

the court may give a direction prohibiting the accused from cross-examining (or further cross-examining) the witness in person.

(3) In determining whether paragraph (2)(a) applies in the case of a witness the court must have regard, in particular, to—

- (a) any views expressed by the witness as to whether or not the witness is content to be cross-examined by the accused in person;
- (b) the nature of the questions likely to be asked, having regard to the issues in the proceedings and the defence case advanced so far (if any);
- (c) any behaviour on the part of the accused at any stage of the proceedings, both generally and in relation to the witness;
- (d) any relationship (of whatever nature) between the witness and the accused;
- (e) whether any person (other than the accused) is or has at any time been charged in the proceedings with a sexual offence or an offence to which Article [^{F3}22A [^{F4}, 22B] or] 23 applies, and (if so) whether Article 22 [^{F5}, 22A][^{F4}, 22B] or 23 operates or would have operated to prevent that person from cross-examining the witness in person;

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- (f) any direction under Article 7 which the court has given, or proposes to give, in relation to the witness.
- (4) For the purposes of this Article—
 - (a) “witness”, in relation to an accused, does not include any other person who is charged with an offence in the proceedings; and
 - (b) any reference to the quality of a witness's evidence shall be construed in accordance with Article 4(5).

F1	Words in art. 24(1) substituted (21.2.2022) by Domestic Abuse and Civil Proceedings Act (Northern Ireland) 2021 (c. 2), s. 24(4)(a) ; S.R. 2022/57, art. 2(x)
F2	Words in art. 24(1) inserted (27.4.2022) by Protection from Stalking Act (Northern Ireland) 2022 (c. 17), ss. 3(5)(a), 22(1)
F3	Words in art. 24(3)(e) inserted (21.2.2022) by Domestic Abuse and Civil Proceedings Act (Northern Ireland) 2021 (c. 2), s. 24(4)(b)(i) ; S.R. 2022/57, art. 2(x)
F4	Words in art. 24(3)(e) inserted (27.4.2022) by Protection from Stalking Act (Northern Ireland) 2022 (c. 17), ss. 3(5)(b), 22(1)
F5	Word in art. 24(3)(e) inserted (21.2.2022) by Domestic Abuse and Civil Proceedings Act (Northern Ireland) 2021 (c. 2), s. 24(4)(b)(ii) ; S.R. 2022/57, art. 2(x)

Further provisions about directions under Article 24

25.—(1) Subject to paragraph (2), a direction has binding effect from the time it is made until the witness to whom it applies is discharged.

In this Article “direction” means a direction under Article 24.

(2) The court may discharge a direction if it appears to the court to be in the interests of justice to do so, and may do so either—

- (a) on an application made by a party to the proceedings, if there has been a material change of circumstances since the relevant time, or
- (b) of its own motion.
- (3) In paragraph (2) “the relevant time” means—
 - (a) the time when the direction was given, or
 - (b) if a previous application has been made under that paragraph, the time when the application (or last application) was made.

(4) The court must state in open court its reasons for—

- (a) giving, or
- (b) refusing an application for, or for the discharge of, or
- (c) discharging,

a direction and, if it is a magistrates' court, must cause them to be entered in the Order Book.

(5) Rules of court may make provision—

- (a) for uncontested applications to be determined by the court without a hearing;
- (b) for preventing the renewal of an unsuccessful application for a direction except where there has been a material change of circumstances;
- (c) for expert evidence to be given in connection with an application for, or for discharging, a direction;

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- (d) for the manner in which confidential or sensitive information is to be treated in connection with such an application and in particular as to its being disclosed to, or withheld from, a party to the proceedings.

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